

# Subsidy Control Bill

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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**Clause 2**

LORD WIGLEY

Page 2, line 21, at end insert—

“(1A) No payment may be regarded as a subsidy if it is equally and freely available to all enterprises whose economic activity, to which the payment relates, is undertaken wholly or largely within the territory of the body making the payment.”

**After Clause 9**

LORD MCNICOL OF WEST KILBRIDE

Insert the following new Clause—

**“The subsidy strategy**

- (1) The subsidy strategy is a strategy made by regulations made by the Secretary of State which outlines how, in the opinion of the Secretary of State—
  - (a) subsidies should be used by public authorities to support the delivery of an industrial strategy,
  - (b) subsidies should contribute to progress towards meeting the target in section 1 of the Climate Change Act 2008 (carbon target for 2050), and
  - (c) the subsidy control scheme established under this Act should interact with, or be otherwise influenced by, other public schemes including (but not limited to)—
    - (i) a UK Shared Prosperity Fund, and
    - (ii) the Levelling Up Fund.
- (2) Regulations under this section are subject to the affirmative procedure.”

***Member’s explanatory statement***

*This amendment seeks the creation of a clear subsidy strategy, to be laid before and approved by Parliament. Such a strategy would set out how Her Majesty’s Government expects subsidies to be used to support a wider industrial strategy and progress towards the 2050 net zero target. It would also outline how the new subsidy control scheme works alongside other initiatives including the Shared Prosperity Fund and Levelling Up Fund.*

**Clause 10**

LORD FOX

Page 6, line 33, leave out subsections (5) and (6) and insert –

“(5) A streamlined subsidy scheme must be made or modified by regulations subject to the negative procedure.”

***Member’s explanatory statement***

*This amendment would require a streamlined subsidy scheme to be made by regulations, as recommended by the DPPRC.*

**Clause 11**

LORD FOX

*Lord Fox gives notice of his intention to oppose the Question that Clause 11 stand part of the Bill.*

***Member’s explanatory statement***

*This is a probing amendment to raise concerns about the definitions in Clause 11 being made by regulations, as highlighted by the DPPRC.*

**Clause 12**

LORD WIGLEY

Page 7, line 25, at end insert –

“(4) Nothing in this section prevents financial assistance being given by a public authority to anybody it deems appropriate in support of achieving cultural or environmental objectives for which it has responsibility.”

**After Clause 13**

LORD MCNICOL OF WEST KILBRIDE

Insert the following new Clause –

**“Application of the subsidy strategy**

- (1) A public authority –
  - (a) must consider the subsidy strategy before deciding to give a subsidy, and
  - (b) subject to subsection (3), must not give the subsidy unless it is of the view that the subsidy is consistent with that strategy.
- (2) A public authority –
  - (a) must consider the subsidy strategy before making a subsidy scheme, and
  - (b) subject to subsection (3), must not make the scheme unless it is of the view that the subsidies provided for by the scheme will be consistent with that strategy.

**After Clause 13 - continued**

- (3) In cases where a public authority believes a subsidy or subsidy scheme is not consistent with the subsidy strategy but is otherwise consistent with the subsidy principles, that authority may give the subsidy or make the subsidy scheme.”

***Member’s explanatory statement***

*This amendment would give effect to the subsidy strategy envisaged by another new Clause in the name of Lord McNicol of West Kilbride. It makes clear that subsidies and subsidy schemes should generally be consistent with the contents of the strategy, but that public authorities may proceed in cases where their plans are not consistent with the strategy but are consistent with the subsidy control principles.*

**Clause 16**

LORD FOX

Page 9, line 12, leave out subsections (4) to (7) and insert—

- “(4) A marketable risk country is to be treated for the purposes of this section as not being a marketable risk country if the Secretary of State designates it as not a marketable risk country by regulations.
- (5) The Secretary of State may make regulations under subsection (4) in respect of a marketable risk country only if satisfied that there is a lack of sufficient private market capacity because of—
- (a) a significant contraction of private credit insurance capacity,
  - (b) a significant deterioration of sovereign sector rating, or
  - (c) a significant deterioration of corporate sector performance.
- (6) The Secretary of State may by regulations revoke a designation made under subsection (4), and must do so in respect of a marketable risk country if the Secretary of State ceases to be satisfied as mentioned in subsection (5).”

***Member’s explanatory statement***

*This amendment would require designations relating to marketable risk countries to be made by regulations, not by direction, as recommended by the DPRRC.*

**Clause 25**

LORD FOX

Page 13, line 21, leave out subsections (4) to (6)

***Member’s explanatory statement***

*This amendment would remove the ability of the Treasury to amend the definition of “deposit taker”, as recommended by the DPRRC.*

**Clause 26**

LORD FOX

Page 14, line 4, leave out subsections (4) to (6)

**Member's explanatory statement**

*This amendment would remove the ability of the Treasury to amend the definition of "insurance company" as recommended by the DPPRC.*

**Clause 27**

LORD FOX

Page 14, line 30, leave out subsections (3) to (5)

**Member's explanatory statement**

*This amendment would remove the ability of the Treasury to amend the definition of "insurer" as recommended by the DPPRC.*

**Clause 29**

LORD MCNICOL OF WEST KILBRIDE

Page 15, line 18, at end insert –

- “(aa) the social and economic welfare of –
- (i) users of the SPEI services, and
  - (ii) persons who are engaged in delivering the SPEI services, and”

**Member's explanatory statement**

*This probing amendment seeks to understand the extent to which subsidy for services of public economic interest may be given to advance the social and economic welfare of a service's users or providers.*

**After Clause 31**

LORD MCNICOL OF WEST KILBRIDE

Insert the following new Clause –

**“Social and economic duties**

- (1) Where –
  - (a) a subsidy secures the provision of –
    - (i) goods,
    - (ii) works,
    - (iii) services, or
    - (iv) the supply of energy, and
  - (b) the value of that subsidy exceeds the amount specified in section 36(1), it must be made on a social value basis.
- (2) When subsection (1) applies, a public authority must impose requirements on the recipient that the authority believes will advance its chosen social value objectives.
- (3) A public authority may, where it deems it appropriate, specify penalties to be imposed on the recipient if social value requirements are not met.
- (4) In this section, “social value” means the improvement of economic, social and environmental well-being of a relevant geographical area.”

***Member's explanatory statement***

*This probing amendment seeks to understand whether and how certain subsidies exceeding £315,000 may make a contribution to achieving social value, a concept used in relation to procurement under the Public Services (Social Value) Act 2012.*

**Clause 34**

LORD MCNICOL OF WEST KILBRIDE

Page 18, line 27, at end insert –

“(2A) Where a subsidy relates to the provision of goods or works and the value of that subsidy exceeds the amount specified in section 36(1), the regulations must require a public authority’s entry to include information on –

- (a) the share of domestically sourced content by value, and
- (b) the recipient of the subsidy’s progress against a benchmark of 60% domestically sourced content across the lifetime of that subsidy.

(2B) For the purposes of subsection (2A), “domestically sourced content” means components or materials that were wholly produced in the United Kingdom.”

***Member's explanatory statement***

*This probing amendment would require public authorities to submit to the subsidy database information regarding domestically sourced content. Notwithstanding the prohibition contained in Clause 17, it is intended to facilitate a discussion on the extent to which public authorities can monitor the use of domestic goods.*

**Clause 46**

BARONESS BENNETT OF MANOR CASTLE

*Baroness Bennett of Manor Castle gives notice of her intention to oppose the Question that Clause 46 stand part of the Bill.*

***Member's explanatory statement***

*This probing amendment is intended to elicit why Bank of England monetary policy subsidies are excluded from the provisions of the Bill.*

**Clause 51**

BARONESS JONES OF MOULSECOOMB

*Baroness Jones of Moulsecoomb gives notice of her intention to oppose the Question that Clause 51 stand part of the Bill.*

***Member's explanatory statement***

*This probing amendment is intended to elicit why nuclear energy is excluded from the energy and environment principles in the Bill.*

### After Clause 62

LORD MCNICOL OF WEST KILBRIDE

Insert the following new Clause –

#### “Post-award investigations

- (1) The CMA may conduct an investigation in relation to a subsidy that has been granted or a subsidy scheme that has been made.
- (2) A decision under subsection (1) may be made in relation to any subsidy or subsidy scheme in respect of which the CMA considers –
  - (a) that there has or may have been a failure to comply with the requirements of Chapters 1 and 2 of Part 2, or
  - (b) that there has or may have been a failure to comply with the transparency obligations set out in Chapter 3 of Part 2.
- (3) Where the CMA makes a decision to investigate a subsidy or scheme under subsection (1), it must direct the public authority to provide it with –
  - (a) any assessment carried out by the public authority as to whether the financial assistance fell within the meaning of “subsidy” or “subsidy scheme” for the purposes of this Act, and the reasons for that conclusion,
  - (b) any assessment carried out by the public authority as to whether the financial assistance, if assessed to constitute a subsidy or subsidy scheme, would comply with the requirements of Chapter 1 and 2 of Part 2 and the reasons for that conclusion,
  - (c) any evidence relevant to those assessments,
  - (d) in a case where such assessments were not provided, the reasons for the assessments not being provided,
  - (e) any information that the public authority failed to enter in the subsidy database in accordance with Chapter 3 of Part 2, and
  - (f) such other information as is specified in regulations under section 60(8)(a).
- (4) Where the CMA decides to conduct an investigation under subsection (1), the direction given under subsection (3) must be made before the end of 20 working days beginning with the day on which the subsidy is given or the scheme is made.
- (5) The CMA must send a copy of the direction given under subsection (3) to the public authority and the Secretary of State.
- (6) The public authority must provide to the CMA the information required under subsection (3) before the end of the information period as defined in section 60(7).”

#### *Member’s explanatory statement*

*This new Clause would provide the CMA with the power to conduct post-award investigations in cases where it believes a public authority has or may have failed to comply with its requirements.*

**Clause 70**

LORD THOMAS OF CWMGIEDD  
LORD MCNICOL OF WEST KILBRIDE  
BARONESS RANDEKSON

Page 40, line 16, at end insert “, the Scottish Ministers, the Welsh Ministers or a Northern Ireland department”

***Member’s explanatory statement***

*The purpose of this amendment is to remove any doubts about the position of the devolved governments being interested parties.*

**Schedule 1**

LORD THOMAS OF CWMGIEDD  
BARONESS RANDEKSON

Page 51, line 8, at end insert—

“in accordance with a common framework agreement made between a Minister of the Crown and the Scottish Ministers, the Welsh Ministers and a Northern Ireland department.

- (2) The common framework agreement should delineate the areas of the United Kingdom of different or disadvantaged economic development for the purposes of providing for differential rates of financial support for agriculture, fisheries and economic development in those areas.”

***Member’s explanatory statement***

*The purpose of this amendment is to provide for agreement between the four governments on the delineation of disadvantaged areas which need levelling up subsidies, rather than leaving this for decision by the CMA and CAT.*

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*26 January 2022*

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